



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

APR 13 2007

REPLY TO THE ATTENTION OF:

AE-17J

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Tim Martinez, President and CEO
Koenig & Vits, Inc.
2015 Mirro Drive
P.O. Box 517
Manitowoc, Wisconsin 54221-0517

Re. Consent order EPA-5-07-113(a) WI-01

Dear Mr. Martinez:

Enclosed is an Administrative Consent Order regarding Koenig & Vits' aluminum melting furnaces at its Manitowoc, Wisconsin facility. Its effective date is **APR 11 2007**

Please direct any legal questions regarding this Order to Michael Berman, Associate Regional Counsel, at (312) 886-6837 and any technical questions to Jeffrey Gahris, Environmental Engineer, at (312) 886-6794.

Sincerely yours,

A handwritten signature in cursive script, appearing to read "Bonnie Bush".

Bonnie Bush, Acting Chief
Air Enforcement and Compliance Assurance Section (Michigan/Wisconsin)

Enclosure

cc: William D. Hayes
Vorys, Sater, Seymour and Pease LLP (with enclosure)

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

IN THE MATTER OF:)	
)	
Koenig & Vits, Inc.)	Administrative Consent Order
)	
Proceeding Under Sections)	EPA-5-07-113(a) WI-01
113(a)(3) and 114(a)(1) of)	
the Clean Air Act, 42 U.S.C.)	
§§ 7413(a)(3) and 7414(a)(1))	
)	

Administrative Consent Order

1. The Director of the Air and Radiation Division, United States Environmental Protection Agency (U.S. EPA), Region 5, is issuing this Administrative Consent Order (hereinafter "Order") to Koenig & Vits, Inc. (hereinafter K&V) under Sections 113(a)(3) and 114(a)(1) of the Clean Air Act (Act), 42 U.S.C. §§ 7413(a)(3) and 7414(a)(1).

2. K&V consents to the entry of this Order without admission of any of the factual allegations and/or findings contained in paragraphs 24 and 26 through 43.

Statutory and Regulatory Background

3. The Administrator of U.S. EPA may promulgate regulations establishing National Emission Standards for Hazardous Air Pollutants (NESHAP) under Section 112 of the Act, 42 U.S.C. § 7412.

4. Under Section 112 of the Act, the Administrator promulgated the NESHAP for Secondary Aluminum Production at 40 C.F.R. §§ 63.1500 through 63.1519. The NESHAP for Secondary Aluminum Production applies to "group 1" aluminum production furnaces, among other emission sources.

5. Subpart RRR, at 40 C.F.R. § 63.1500, applies to the owner or operator of each secondary aluminum production facility as defined in § 63.1503.

6. Subpart RRR, at 40 C.F.R. § 63.1502, defines a secondary aluminum production facility as any establishment using clean charge, aluminum scrap, or dross from aluminum production, as the raw material and performing one or more of the following processes: ... furnace operations (i.e., melting, holding, sweating, refining, fluxing, or alloying),...

7. Subpart RRR, at 40 C.F.R. § 63.1503, defines a group 1 furnace as a furnace of any design that melts, holds, or processes aluminum that contains paint, lubricants, coatings, or other foreign materials with or without reactive fluxing or processes clean charge with reactive fluxing. This same subpart defines a group 2 furnace as a furnace that melts, holds, or processes only clean charge and that performs no fluxing or performs fluxing using only nonreactive, non-HAP-containing/non-HAP-generating gases or agents.

8. Subpart RRR, at 40 C.F.R. § 1500, et seq., requires the owner and operator of a group 1 furnace to comply with emissions standards for dioxins and furans (D/F), testing, operating, recordkeeping, and reporting requirements.

**Requirements for Emission Limitation
and Compliance Performance Testing**

9. Subpart RRR, at 40 C.F.R. § 63.1505(a), requires an owner or operator of a new or existing affected source to comply with each applicable limit in this section.

10. Subpart RRR, at 40 C.F.R. § 63.1505(i), specifies that the owner or operator of a group 1 furnace must meet the D/F emission limit if it is an area source.

11. Subpart RRR, at 40 C.F.R. § 63.1511(a), specifies that the owner/operator must submit a site-specific test plan prior to conducting any performance testing.

12. Subpart RRR, at 40 C.F.R. § 63.1511(b), specifies that the owner or operator must demonstrate initial compliance with each applicable emission, equipment, work practice, or operational standard for each affected source and emission unit, and report the results in the notification of compliance status report as described in § 63.1515(b). Subpart RRR goes on to say that the owner or operator of any existing affected source for which an

initial performance test is required to demonstrate compliance must conduct this initial performance test no later than the date for compliance established by 40 C.F.R. § 63.1501(a).

Requirements for Operation of a Group 1 Furnace

13. Subpart RRR, at 40 C.F.R. § 63.1506(a), specifies that on and after the date on which the initial performance test is conducted or required to be conducted, whichever date is earlier, the owner or operator must operate all new and existing affected sources and control equipment according to the requirements in Section 1506.

14. Subpart RRR, at 40 C.F.R. § 63.1506(n), requires owners and operators of a group 1 furnace without add-on air pollution control devices, among other things, to operate each furnace in accordance with the work practice/ pollution prevention measures documented in the OM&M plan and within the parameter values or ranges established in the OM&M plan.

Requirements for Monitoring Group 1 Furnaces

15. Subpart RRR, at 40 C.F.R. § 63.1510(a), specifies that on and after the compliance date established by 40 C.F.R. § 63.1501, the owner or operator of a new or existing affected source or emission unit must monitor all control equipment and processes according to the requirements in 40 C.F.R. § 63.1510.

16. Subpart RRR, at 40 C.F.R. § 63.1510(b), specifies that the owner or operator must prepare and implement for each new or existing affected source and emission unit, a written operation, maintenance, and monitoring (OM&M) plan, which must be submitted to the permitting authority by the compliance date established by 40 C.F.R. § 63.1501(a) and must include the information specified by 40 C.F.R. § 63.1510(b).

Other Requirements for Owners or Operators of Group 1 Furnaces

17. Subpart RRR, at 40 C.F.R. § 63.1515(b), specifies that each owner or operator of an existing affected source must submit a notification of compliance status report within 60 days after the compliance date established by 40 C.F.R. § 63.1501(a), according to the requirements of this section.

18. Subpart RRR, at 40 C.F.R. § 63.1516(a), specifies that each owner or operator must develop and implement a written plan as described in this section and 40 C.F.R. § 63.6(e)(3), containing specific procedures to be followed for operating and maintaining the source during periods of startup, shutdown, and malfunction, and including corrective actions to address malfunctions.

19. Subpart RRR, at 40 C.F.R. § 63.1517(a), specifies that as required by 40 C.F.R. § 63.10(b), the owner or operator shall maintain files of all information, including all reports and notifications, required by the general provisions of Subpart A and this subpart.

20. Subpart A, at 40 C.F.R. § 63.6(e)(3), specifies that the owner/operator is required to have a startup, shutdown, and malfunction (SSM) plan on-site that conforms with the requirements of this section.

21. Subpart A, at 40 C.F.R. § 63.9(b)(2), specifies that the owner/operator must submit an initial notification to the Administrator according to the requirements of this section.

22. Under Section 113(a)(3) of the Act, 42 U.S.C. § 7413(a)(3), the Administrator of U.S. EPA may issue an order requiring compliance to any person who has violated or is violating the NESHAP regulations. The Administrator has delegated this authority to the Director of the Air and Radiation Division.

23. The Administrator of U.S. EPA may require any person who owns or operates an emission source to make reports and provide information required by the Administrator under Section 114(a)(1) of the Act, 42 U.S.C. § 7414(a)(1). The Administrator has delegated this authority to the Director of the Air and Radiation Division.

Findings

24. K&V owns and operates a facility that produces aluminum coils and similar products at 2015 Mirro Drive, Manitowoc, Wisconsin, that meets the definition of a Secondary Aluminum Production facility, as defined by 40 C.F.R. § 63.1503.

25. K&V owns and operates two aluminum production furnaces at its Manitowoc facility. K&V purchased the facility, including the furnaces, in December of 2003.

26. K&V's furnaces are capable of accepting scrap that does not meet the definition of "clean charge" found at 40 C.F.R. § 63.1503.

27. U.S. EPA believes K&V's furnaces were group 1 furnaces as defined by 40 C.F.R. § 63.1503.

28. K&V's furnaces are subject to the NESHAP for Secondary Aluminum Production at 40 C.F.R. § 63.1500.

29. K&V's furnaces are an affected source as defined by 40 C.F.R. § 63.2.

30. K&V's furnaces are an area source of hazardous air pollutants (HAPs) as defined by 40 C.F.R. § 63.2.

31. K&V's furnaces are an existing source, as defined by 40 C.F.R. § 63.2.

32. K&V was required to comply with the requirements of 40 C.F.R. subpart RRR by March 24, 2003. 40 C.F.R. § 3.1501(a).

33. K&V did not conduct an initial performance test of the furnaces for D/F as required by 40 C.F.R. §§ 63.1501(a) and 63.1511(b).

34. K&V did not prepare, implement and submit a written OM&M plan as required by 40 C.F.R. § 63.1510(b).

35. K&V did not submit a notification of compliance status report as required by 40 C.F.R. § 63.1515(b).

36. K&V did not develop and implement a written startup, shutdown, and malfunction plan as required by 40 C.F.R. §§ 63.6(e)(3) and 63.1516(a).

37. K&V did not maintain files as required by 40 C.F.R. §§ 63.10(b) and 63.17(a).

38. K&V owns and operates an "emission source" within the meaning of Section 114(a)(1) of the Act, 42 U.S.C. § 7414(a)(1). Therefore, K&V is subject to the requirements of Section 114(a)(1).

39. On December 8, 2004, U.S. EPA inspected K&V's Manitowoc facility.

40. On March 16, 2005, U.S. EPA issued to K&V an information request under Section 114 of the Clean Air Act requiring K&V to provide information about its operation of aluminum production furnaces. K&V supplied information in response to this request. Subsequently, on December 9, 2005, U.S. EPA issued to K&V a second information request requiring that K&V conduct emission testing for D/F emissions from its aluminum production furnaces.

41. On January 18, 2006, representatives of K&V and U.S. EPA met and discussed the stack testing, and discussed work practices at K&V pertaining to how it inspects and processes scrap materials prior to charging it into its furnaces. On January 18 and February 1, 2006 K&V submitted information intended to support their position that the furnaces would be properly classified as Group 2 rather than Group 1 furnaces.

42. On April 13, 2006, U.S. EPA granted K&V a third time extension for complying with the 114 request for performance testing.

43. U.S. EPA believes that K&V violated the NESHAP for Secondary Aluminum Production at 40 C.F.R. §§ 63.1500 - 63.1519 when:

a. It failed to conduct an initial performance test at its furnaces to demonstrate that it met the emission standard for D/F, as specified in 40 C.F.R. §§ 63.1505(i)(3) and 63.1511(b).

b. It failed to submit a notification of compliance status within 60 days of the March 24, 2003, compliance date, 40 C.F.R. § 63.1515(b).

c. It failed to maintain files of all information, including all reports and notifications, required by the general provisions of Subparts A and RRR, 40 C.F.R. § 63.1517(a) as required by 40 C.F.R. § 63.10(b).

d. It failed to prepare, implement, and maintain a written operation, maintenance, and monitoring plan, as described at 40 C.F.R. §§ 63.1510(b), 63.1517(a), and 63.10(b).

e. It failed to develop, implement, and maintain a written startup, shutdown, and malfunction plan, 40 C.F.R. §§ 63.1516(a), 63.1517(a), and 63.6(e)(3).

Compliance Program

44. By the effective date of this Order, K&V must achieve, demonstrate, and maintain compliance with the applicable NESHAP requirements for group 2 furnaces at area sources for Secondary Aluminum Production at its Manitowoc, Wisconsin facility. 40 C.F.R. §§ 63.1500-63.1519.

45. K&V must comply with the applicable operating, monitoring, reporting, and recordkeeping requirements of the NESHAP that apply to group 2 furnaces, including applicable requirements at 40 C.F.R. §§ 63.1506, 63.1510, 63.1515, 63.1516, and 63.1517.

46. K&V must review, update and submit to U.S. EPA its scrap management plan in accordance with the attached outline, within 30 days of the effective date of this order. Within 60 days of receipt U.S. EPA can either approve the scrap management plan or request reasonable changes needed to assure effectiveness of the plan and return it to K&V. Upon receipt of the requested changes to the plan, K&V will have 15 days to resubmit a corrected plan in accordance with EPA's requested changes.

47. In the event that K&V does not update its scrap management plan as required in paragraph 46 above, and comply with the provisions of paragraph 45 above, K&V must conduct performance testing as set forth in the information request issued under Section 114(a)(1) of the Act, 42 U.S.C. § 7414(a)(1) within 90 days of the effective date of this order.

48. The requirement to conduct performance testing as contained in paragraph 47 above may be stayed if K&V submits a request in writing for a meeting to review U.S. EPA's requested changes to the scrap management plan.

49. K&V must send all reports required by this Order to:

Attention: Compliance Tracker (AE-17J)
Air Enforcement and Compliance Assurance Branch
U.S. EPA, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604.

General Provisions

50. This Order does not affect K&V's responsibility to comply with other local, state, and federal laws and regulations.

51. This Order does not restrict U.S. EPA's authority to enforce Section 112 of the Act, or any other section of the Act.

52. Nothing in this Order limits U.S. EPA's authority to seek appropriate relief, including penalties under Section 113 of the Act, 42 U.S.C. § 7413, for violations by K&V of the NESHAP for Secondary Aluminum Production.

53. Failure to comply with this Order may subject K&V to penalties of up to \$32,500 per day for each violation under Section 113 of the Act, 42 U.S.C. § 7413, and 69 Fed. Reg. 7121 (Feb. 13, 2004) (amending 40 C.F.R. Part 19).

54. The terms of this Order are binding on K&V, its assignees and successors. K&V must give notice of this Order to any successors in interest, prior to transferring ownership, and must simultaneously verify to U.S. EPA, at the above address, that K&V has given the notice.

55. This Order is not subject to the Paperwork Reduction Act, 44 U.S.C. § 3501 et seq., because it seeks collection of information by an agency from specific individuals or entities as part of an administrative action or investigation. To aid in our electronic record keeping efforts, please provide your response to this Order without staples. Paper clips, binder clips, and 3-ring binders are acceptable.


56. U.S. EPA may use any information submitted under this Order in an administrative, civil or criminal action.

57. K&V agrees to the terms of this Order.


58. Without admission of any fact or liability, and for purposes of resolving disputed claims, K&V agrees to the terms of this order.

This Order is effective on the date of signature by the Director of the Air and Radiation Division. This Order will terminate one year from the effective date, provided that K&V has complied with all terms of the Order throughout its duration.

3/22/07
Date


Tim Martinez, President and CEO
Koenig & Vits, Inc.

4/11/2007
Date


Stephen Rothblatt, Director
Air and Radiation Division

Attachment

Scrap Inspection Plan Requirements

The following or its equivalent is required in a Scrap Inspection Plan.

1. Provide a formal training program for handling of incoming scrap.
2. Develop training materials that cover implementation of the Plan and submit a copy of the materials to U.S. EPA.
3. Identify in the training materials specific materials that must be rejected pursuant to the Plan.
4. Describe detailed inspection procedures in the Plan. The Plan must address the company's knowledge of the history of scrap generated within the facility or by outside entities, and specifically address how the scrap is known to be free of paints, coatings, and lubricants, including clear coatings and lubricants.
5. Document inspections done by each individual as material is staged and ultimately charged. *Procedures must address clear coatings and lubricants that might not be readily visible during a visual inspection.* Assure that records are kept for bale inspections for a period of at least 2 years.
6. Be able to track each bale (or coil) of scrap by assigning a numbered tag or equivalent in a manner that assures that the status of each bale can be confirmed with respect to compliance with the Plan while it is located on the plant floor. Assure that records are kept for bale tracking for a period of at least 2 years.
7. Provide needed quality assurance checks, including random selection of bales for breaking apart to closely inspect materials for compliance with clean charge requirements.
8. Document procedures for rejecting bales. Assure that bale rejection records are kept for a period of at least 2 years.

CERTIFICATE OF MAILING

I, Shanee Rucker, certify that I sent a copy of the
Administrative Consent Order, EPA Order No. **EPA-5-06-113(a) WI-
01**, by Certified Mail, Return Receipt Requested, to:

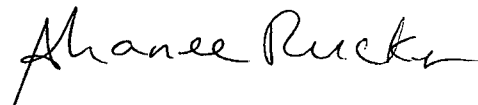
Tim Martinez, President and CEO
Koenig & Vits, Inc.
2015 Mirro Drive
Manitowoc, Wisconsin 54221 -0517

I also certify that I sent a copy of the Administrative
Consent Order, EPA Order No. **EPA-5-06-113 (a) WI-01** by First
Class Mail to:

Rick Wulk, Supervisor
Northeast District Office
Wisconsin Department of Natural Resources
1125 North Military Avenue, P.O. Box 10448
Green Bay, Wisconsin 54307

William D. Hayes, Esq.
Vorys, Sater, Seymour and Pease LLP
Suite 2000, Atrium Two
221 East Fourth Street
Cincinnati, Ohio 45202

on the 13th day of April 2007.


Shanee Rucker
AECAS (MI/WI)

Certified Mail # 7001 0320 0006 0198 9208